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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/521,404

01/18/2005

Antonio Izzo

3218

1982

7590

12/01/2006

Striker Striker & Stenby
103 East Neck Road
Huntington, NY 11743

EXAMINER

EWALD, MARIA VERONICA

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/521,404

Applicant(s)

IZZO, ANTONIO

Examiner

Maria Veronica D. Ewald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/18/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/18/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1 – 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 states "...double-stroke belt takes the mixture by the movement of its mat and unloads it homogeneously..." in lines 9 – 10. However, it is unclear what it is meant by stating "...its mat." Previous mention of the slab being produced is indicated as materials or a mixture, but there is no previous mention of a mat being produced. Appropriate clarification is required.

In addition, claims 1 – 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the mixture" in lines 9 – 10; however, there is no previous mention of the materials being made into a "mixture." There is insufficient antecedent basis for this limitation in the claim and thus, appropriate correction is required.

Furthermore, claims 5 – 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As written, claims 5 – 6 are not proper dependent claims, in that, each state "a method to produce slabs according to the

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system of claim 1..." and "slabs produced by the system of claim 1." Both claims do not further limit the system being claimed and provide no additional structural limitations to the apparatus, and thus, are rendered indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalla Valle (WO 01/60590 A1) in view of Barnes, et al. (U.S. 4,478,896). Dalla Valle teaches a system for the production of composite material slabs, characterized in that the materials are unloaded from one or more mixers (item 12 – figure 2) to hoppers (item 10 – figure 2) unloading the same to one or more extractor/conveyor belts (item 27 – figure 2) that feed the material to a homogenizing disc (item 30 – figure 2; page 11, lines 20 – 25; page 12, lines 1 – 6) rotating about its vertical axis and feeding the material to conveyor belts (item 19 – figure 2), wherein the material is ultimately unloaded to the underlying mold, covering the whole surface thereof and filling the same (item 17 – figure 2). In addition, Dalla Valle teaches that before the extracted mixture is fed to the homogenizing disc, it passes through one or more pairs of rollers capable of avoiding any lumps (item 14 – figure 2) and wherein the system includes mixtures of silica, granulates, binding agents with different colors distributed by little belts to the

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extracting belt provided by little mixers located at a height above the extracting belt feeding the mold so that leopard skin colorings or veined products can be obtained (page 2, lines 15 – 20; page 3, lines 1 – 5; page 14, lines 10 – 25).

Dalla Valle, however, does not teach that there are successive hoppers and conveyor belts conveying the aggregate mixture from the homogenizing disc to the mold itself.

In a method to convey wood strands or particles through multiple passes to include a series of connected hoppers and conveyor belts, Barnes, et al. teach a series of falling curtains of wood strands through a multiple-pass blender (figure 1). The use of a multiple-pass blender allows adequate mixing between each stage to ensure that the particles and flakes are thoroughly and evenly distributed before the final molding (column 1, lines 25 – 40, 60 – 67). The multiple-pass operation allows remixing between passes, ensuring adequate coating and ultimately, good particle board properties (column 1, lines 63 – 67). This reads on the Applicant's claim that the material is conveyed to a leveling hopper from which a double stroke belt takes the mixture by the movement of its mat and unloads it homogeneously to the leveling hopper by its linear movement, from which it is taken by an extracting belt causing the material to distribute along its length whereupon the material is unloaded to the underlying leveling hopper and while the belt starts its movement to the opposite direction, the leveling hopper integral to the belt starts to unload the material to the underlying mold.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Dalla Valle to incorporate

the multiple-pass system of Barnes, et al. for the purpose of allowing adequate re-mixing and distribution of the aggregate mixture prior to final unloading to its mold which results in adequate product properties.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dalla Valle (WO 01/60590 A1) in view of Barnes, et al. (U.S. 4,478,896) and further in view of Rexius, et al. (U.S. 4,979,960). Dalla Valle and Barnes, et al. teach the characteristics previously described but do not teach that color can be injected to the mixture distributed on the extractor belt before or during the transport step to the mold.

In a method to color wood by-products, Rexius, et al. teach that color or dye is introduced to wood shavings. Such shavings are mixed and re-mixed as they pass through a step-wise and continuous system of conveyors (figure 1). The dye is introduced through multiple ports (item 33 – figure 3), which discharge toward a parallel deflector (item 34 – figure 1) and thereby flow through the open mesh belts and contact the wood chips. Excess dye is then directed to the filters in the bottom and recycled (column 2, lines 40 – 45; column 3, lines 5 – 20). This reads on the Applicant's claim that color is injected to the mixture distributed on the extractor belt before or during the transport step to the mold.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the apparatus of Dalla Valle, configured with the multiple-pass system of Barnes, et al. to further include the dye injection system of Rexius, et al. for the purpose of uniformly introducing color to the aggregate mix to

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produce slabs of various patterned colors, depending on the product specifications of the user or consumer.

References of Interest

15. Dalla Valle (U.S. 6,846,552), Irie, et al. (U.S. 5,393,214) and Forry, et al. (U.S. 4,432,714) are cited of interest to show the state of the art.

Conclusion

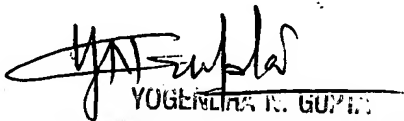
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MVE



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